

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the adoption of New     )  
Rules I through XI pertaining to the     )  
third-party CDL skills testing program     )  
and the amendment of ARM 23.3.502     )  
pertaining to commercial driver's     )  
license testing     )

NOTICE OF ADOPTION AND  
AMENDMENT

TO: All Concerned Persons

1. On September 7, 2018, the Department of Justice published MAR Notice No. 23-3-253 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1766 of the 2018 Montana Administrative Register, Issue Number 17.

2. The department has adopted the following rules as proposed: New Rule I (23.3.560), New Rule II (23.3.561), New Rule III (23.3.562), New Rule IV (23.3.563), New Rule V (23.3.564), New Rule VI (23.3.565), New Rule VII (23.3.566), New Rule VIII (23.3.567), New Rule X (23.3.569), New Rule XI (23.3.570), and amended ARM 23.3.502 as proposed.

3. The department has adopted the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE IX (23.3.568) TEST SCHEDULING, RECORDKEEPING, AND TRANSFERRING CDL SKILLS TEST RESULTS (1) through (7) remain as proposed.

(8) ~~The applicant must wait seven days before being eligible to retake any unsuccessfully completed component of the CDL skills test~~ If an applicant fails and seeks to retake the vehicle inspection or basic controls skills component of the CDL skills test, the examiner must schedule in CSTIMS the subsequent testing appointment at least two days before the test.

(9) If an applicant fails and seeks to retake the road test, the examiner must schedule in CSTIMS the subsequent testing appointment at least six days before the test.

(9) and (10) remain as proposed, but are renumbered (10) and (11).

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

Comment 1: A number of commenters objected to the requirement that an applicant wait seven days before being eligible to retake any unsuccessfully completed CDL skills test.

Response 1: The department agrees in part and disagrees in part with this comment. Federal regulations require a third-party tester to submit a schedule of CDL skills testing appointments to the department no later than two business days before each test. The department agrees to reduce the number of days that an individual has to wait to re-take the vehicle inspection and basic skills components of the CDL skills test. The department declines to reduce the waiting time when an applicant fails the road test for a variety of reasons, including that it is important to give an applicant additional time to practice before testing and that the waiting time corresponds to the requirements for the three components that are given by state examiners.

Comment 2: There were various comments about the timing of written tests, the ability of the department to accept out-of-state test results for an individual who was issued a Montana learner permit, and items that would be covered during contract negotiation, including tablet technical specifications.

Response 2: These comments are outside the scope of the proposed rules and the department cannot agree or disagree with them.

/s/ Hannah Tokerud  
Hannah Tokerud  
Rule Reviewer

/s/ Timothy C. Fox  
Timothy C. Fox  
Attorney General  
Department of Justice

Certified to the Secretary of State January 29, 2019.